

Information for Santa Monica Mountains National Recreation Area, a unit of the National Park System within Los Angeles and Ventura Counties, California.

Firearms in National Parks: What you need to know

A new federal law has changed the public's right to possess firearms in national parks. This law, The Credit Card Accountability Responsibility and Disclosure Act of 2009 (P.L. 111-24), was enacted May 22, 2009 and became effective Feb. 22, 2010. Section 512, Protecting Americans from Violent Crimes, supersedes the uniform treatment of firearm possession in the national park system outside Alaska under the regulations found at 36 C.F.R. § 2.4, and will require the National Park Service (NPS) to consider federal and state laws applicable to possession. It states that the NPS "shall not promulgate or enforce any regulation" prohibiting possession of firearms in parks. Promulgate means to declare, or to put a law into action or effect.

Partial Text of Section 512, (b) P.L. 111-24, Credit Card Accountability Responsibility and Disclosure Act of 2009, 123 Stat. 1764-65 § 512

(b) Protecting the Right of Individuals To Bear arms in Units of the National Park System and the National Wildlife Refuge System- The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if--

- (1) the individual is not otherwise prohibited by law from possessing the firearm;
and
- (2) the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.

As of Feb. 22, 2010, a new federal law allows people who can legally possess firearms under applicable federal, state and local laws to legally possess firearms in national parks. In essence this law allows for law-abiding citizens to have the same gun rights in a national park as outside the park in the same state or municipality in which the park is located. It is a right protected by the U.S. Bill of Rights; Second Amendment, ensuring "the right of the people to keep and bear arms."

Who may carry firearms in the parks?

The new law has two requirements for an individual to possess a firearm in the park. First, the individual must be legally allowed to possess the firearm. Second, the gun owner must comply with the federal and state laws the park is located in.

The Gun Control Act of 1968, as amended, 18 U.S.C. § 921, et seq., and Title 27 Code of Federal Regulations (C.F.R.) 478.11 include restrictions on the shipment, transportation, receipt or possession of firearms by certain classes of persons. Under this act, the following groups of people are ineligible to own firearms:

- Those convicted of any offense punishable by imprisonment exceed one year, whether or not such term was imposed. (Section 922(g)(1))
- Fugitives from justice (Section 922(g)(2))
- Unlawful users or addicts to controlled substances.
A "controlled substance" as defined in 21 U.S.C. 802 and 21 C.F.R. Part 1308, includes but is not limited to marijuana, depressants, stimulants, and narcotic drugs. The term "controlled substance" does not include distilled spirits, wine, malt beverages, or tobacco (as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended).
- Those who have been committed to a mental institution or adjudicated as mental defectives (Section 922(g)(4))

- Illegal or unlawful Aliens in the United States. (Section 922(g)(5))
- Those persons dishonorably discharged from the Armed Forces. (Section 922(g)(6))
- Those who have renounced U.S. citizenship (Section 922(g)(7))
- Minors defined as under the age of eighteen for long guns and handguns
- Persons subject to a restraining order. (Section 922(g)(8))
- Persons convicted in any court of a misdemeanor crime of domestic violence. (Section 922(g)(9))
- Persons under indictment for a crime punishable by imprisonment for more than one year are ineligible to receive, transport, or ship any firearm or ammunition. (Section 922(n))

Generally, if an individual can legally possess a firearm outside of a national park in a particular state, - after Feb.21, 2010, they may also possess a firearm within a national park within that same state. It is the responsibility of visitors to understand the requirements of federal law and the laws of the states/localities they are travelling to (or through).

Allowable Firearm Carry

The new statute is not limited to the possession of only concealed firearms, but generally looks to applicable state law to control the possession of both concealed firearms as well as “open” carry. “Open” carry means possessing the firearm in a way that it is visible to others – in a belt holster for example, as well as slung over the shoulder, or on a gun rack in a vehicle. Individuals may also carry concealed firearms if they comply with applicable laws. Concealed weapons are covered (by clothing) or out of view. Some state laws include partially covered in their definition of concealed.

Allowed Firearms

Section 512 allows all firearms that meet applicable laws (federal, state, and local) into parks. You may see handguns, rifles and shotguns, and semi-automatic machine guns.

18 U.S.C § 921 (a)(3)—Definition of a Firearm

There are many definitions of types of firearm and “dangerous weapons”; the following is the general provision:

“(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.”

Definition of Federal Facilities

Federal law prohibits firearms in appropriately posted federal facilities. “Federal facilities” are defined in 18 U.S.C. § 930 (g)(1) as:

“The term “Federal facility” means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.”

Subject to this provision, a *federal facility* must meet **all three** of the following criteria:

- 1) **be a “building or part thereof”**. Common definitions of this term are: “[a] structure with walls and a roof, esp. a permanent structure,” (Black's Law Dictionary, 8th ed., 2004). According to one court, the word “building” does not include an outside fenced employee parking lot.
- 2) **the building or part thereof is owned or leased by the federal government**

- 3) **federal employees are regularly present for the purpose of performing their official duties;** while the statute does not define “regularly” the National Park Service views this as including the scheduled, daily presence of NPS employees performing official duties.

Examples of federal facilities are: visitor centers, park administrative office buildings, park maintenance offices and workshops, backcountry offices, ranger stations, lifeguard kiosks, fee-collection stations. Structures such as covered parking garages and covered amphitheaters may qualify as federal facilities.

Examples of nonfederal facilities: Campfire rings open to the sky, with several benches used for evening interpretive talks and parking lots.

In addition, the statute requires that in order to enforce this prohibition, notice of the provisions of the law must “be posted conspicuously at each public entrance to each Federal facility,” and that no person shall be convicted of an offense under 18 U.S.C. § 930(a) if such notice is not so posted, unless the person had actual notice of the law.

Example of Appropriate Sign Language

Federal law prohibits the possession of a firearm or other dangerous weapon in this Federal facility unless specifically authorized. 18 USC 930(a) possession violations are subject to fine and/or imprisonment up to one year, while 18 USC 930(b) possession violations with intent to commit a crime are punishable by a fine and imprisonment up to five years.

Possession of firearms in cars, tents or backpacks

If individuals carry firearms in the park, they are responsible for those firearms. This includes the possession, the safe and proper storage of the firearm, and understanding and complying with applicable laws. State laws define possession in a vehicle and concealed weapons in different ways.

Hunting or shooting in parks

The new federal law only affects the **possession** of firearms not the **use**. 36 C.F.R § 2.4(a)(1) is still applicable in all regards except possession of a firearm. Generally the discharge or shooting of firearms or hunting is not allowed in parks. You must adhere to the specific hunting rules and regulations of each park.

36 C.F.R § 2.4(a)(1) —Weapons, traps and nets.

“except as otherwise provided in this section and parts 7 (special regulations) and 13 (Alaska regulations), the following are prohibited: (i) Possessing a weapon, trap or net (ii) Carrying a weapon, trap or net (iii) Using a weapon, trap or net”.

Possession of other weapons

All other weapons must comply with 36 C.F.R § 2.4(a)(1) and existing park rules and regulations. In most cases, traps, nets or other weapons - including bows - are illegal to carry in parks.

Importance of State Laws

Section 512 will require the service to consider federal and state laws that are applicable to firearm possession. Applying state laws requires that each park understand the unique statutes that apply. It is crucial to know and follow applicable federal firearms laws as well as the firearms laws of the state in which the park or that portion of the park is located. When a park is located in more than one state, the laws of the state in which the relevant portion of the unit is located should be applied. For example, someone who wishes to travel through Yellowstone National Park will be subject to any applicable federal firearms laws as well as the respective firearms laws of Wyoming, Montana, and Idaho, depending on which part of the park they are in at any given point in time. The laws of the states in which they reside, or from which they may have received firearms permits, do not apply when they are away from those states, although some states offer reciprocity

and allow possession based on another state's permits. It is up to individuals to know the laws of the state they are in and where they are.

Reciprocity

States often recognize other states concealed firearm permits or licenses. This is referred to as reciprocity. It allows someone who is permitted or licensed for concealed carry in one state to legally carry a concealed weapon in another state if there is reciprocity between those states. Reciprocity varies from state to state and changes often. It is the responsibility of individual gun owners to determine which states accept their concealed carry permit.

Where can I find the firearms laws for each state?

Go to the following link for individual state websites.*

http://www.usa.gov/Agencies/State_and_Territories.shtml